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October 15, 2007

## MEMORANDUM

**TO:** Legislative Education Study Committee

**FR:** Peter van Moorsel

**RE: STAFF REPORT: IDEAL-NM AND THE STATEWIDE CYBER ACADEMY**

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## **INTRODUCTION**

The Innovative Digital Education and Learning-New Mexico (IDEAL-NM) initiative represents a significant step toward providing New Mexico students access to online learning resources. The initiative is a cooperative effort between the Public Education Department (PED) and the Higher Education Department (HED) to implement a statewide eLearning delivery system for K-12, higher education, and state agencies; a Statewide Cyber Academy; and a statewide eLearning Service Center that will support the use of the eLearning delivery system.

This report addresses the implementation of IDEAL-NM and the Statewide Cyber Academy. To implement these programs, the 2007 Legislature appropriated approximately \$7.6 million; the appropriations included language stipulating that the funding was contingent upon the creation and approval of a statewide Distance Education Plan, and a Cyber Academy Plan. HED has provided the Legislative Education Study Committee (LESC) staff with these two planning documents, as well as the IDEAL-NM Project Management Plan. These planning documents are the source of much of the information presented in this report.

## **IDEAL-NM (Innovative Digital Education and Learning-New Mexico)**

According to the planning documents the IDEAL-NM initiative will establish a common infrastructure for online learning for the project's three main components: K-12 education, higher education, and state agencies. IDEAL-NM and the Statewide Cyber Academy, have three main goals:

- to implement a statewide eLearning system that will provide online learning and professional development to K-12, higher education, and state agencies. This goal includes acquiring a Learning Management System (LMS), which is software used to manage learning activities through the ability to catalog, register, deliver, and track learners and learning. The eLearning system also includes a web-conferencing system to provide the ability for learners and instructors to interact face to face, and a help desk system that allows users to receive online user support. Finally, the eLearning system requires hosting centers, i.e. the physical centers where the technology to support online learning is located;
- to create a state-led cyber academy serving grades K-12; and
- to create a statewide eLearning service center. The eLearning service center will be the physical location for administrative staff for IDEAL-NM and the Statewide Cyber Academy, and will provide technical support for users of the statewide learning management system and web-conferencing systems.

IDEAL-NM, when fully implemented, will allow public and higher education, as well as state agencies to access online distance education and professional development. Figure 1 depicts the partnership between the PED and HED, who are the two primary organizational partners in IDEAL-NM. The table also illustrates IDEAL-NM's governance structure, and includes duties for three executive level positions:

- The eLearning Service Center Executive Director, a PED position, is the chief administrator of IDEAL-NM. Among other studies, the executive director provides overall procedures and direction; coordinates program accountability; manages the program budget; and works with state agencies and the Legislature on policy development. This position was filled on September 29, with the hiring of Dr. Penne Wilson.
- The cyber academy Director, also a PED position, is the “principal” of the Statewide Cyber Academy. Among other duties, the cyber academy Director is the leader for K-12 eLearning priorities and alignment with key educational initiatives; develops and enforces policies and procedures; hires, trains and evaluates teachers and staff; and serves as the point of contact for schools, parents, students, and media. This position has not yet been filled.
- The eLearning Services Director, an HED position, is the leader for higher education and state agency eLearning priorities and alignment with key educational initiatives. Among other duties, the eLearning services director manages the eLearning technical services for K-12, HED, and state agencies; manages eLearning web portal operations and the eLearning course/program inventory; and manages help desk services that provide technical and administrative support. HED reports that this position announcement will be posted in October, and that this position is the last one filled because eLearning services will not be offered until a later phase in the implementation of IDEAL-NM.

**Figure 1: Statewide eLearning Service Center Governance Structure**



**SOURCE:** PED - Cyber Academy Plan

The first phase of IDEAL-NM is the implementation of a Statewide Cyber Academy that will allow all public middle and high schools to acquire eLearning courses for their students, with an initial emphasis on serving rural districts. Later phases will implement eLearning services that focus on higher education, workforce development, and the provision of professional development for public school district and state agency employees. The Project Manager, eLearning Service Center Executive Director, Distance Learning Services Director, cyber academy Director, Administrative Assistant, and help desk staff will work out of the Service Center located at the Rio Rancho Cyber Academy facility in Rio Rancho, New Mexico.

The timelines for the implementation of IDEAL-NM and the Statewide Cyber Academy include the following events:

- awarding a contract for the Learning Management System by October. (HED has reported that due to delays in publishing the request for proposal (RFP), the award date for the RFP is now set for November 10, 2007);
- opening the eLearning Service Center in offices leased from the Rio Rancho Cyber Academy by November 30, 2007, from where IDEAL-NM and Statewide Cyber Academy staff will operate;
- procuring web-conferencing services by December, 2007. HED reports that the specific type of web-conferencing services that will be acquired depend on the type of LMS that will be procured. In order to ensure that the two systems are compatible, the web-conferencing contract will be awarded once it is known what type of LMS has been procured;
- procuring help desk software, training help desk staff, and achieving a fully operational help desk by December 2007. Through the help desk software, staff will be able to provide cyber academy students, teachers and administrators with technical support;

- completing the E-Services Web-Portal by February 28, 2008. Upon implementing the LMS, the web-portal will allow “one stop shopping” for online courses and professional development;
- achieving functioning data centers by June 2, 2008. These data centers will host the hardware that is used to support the project; and
- opening the Statewide Cyber Academy by August 1, 2008.

## FUNDING

To implement the provisions of the *Statewide Cyber Academy Act*<sup>1</sup> (Attachment 1), the 2007 Legislature appropriated approximately \$7.6 million, including:

- \$6.4 million to HED to implement IDEAL-NM;
- \$500,000 in HED’s budget for operational costs;
- \$500,000 to PED for operational costs of the Statewide Cyber Academy;
- \$120,000 to RECs 3, 8, 9. The eLearning Services Executive Director reports that the RECs will be involved in the development of the RFP for the help desk software, and assist with the reporting of cyber academy student data. RECs will also act as Regional Training and Support Centers providing phone and online support and technical training for teachers; and
- \$50,000 to the Rio Rancho Cyber Academy, which HED has reported will be used to lease office space for the cyber academy’s statewide eLearning Service Center to be located at Rio Rancho Cyber Academy.

The \$6.4 million to HED for the implementation of IDEAL-NM includes language requiring HED to make monthly progress status reports, including funds expended, milestones achieved, number and location of distance learning sites and students served to the office of the Chief Information Officer (CIO) of the State of New Mexico. All data processing appropriations also include language that the Department of Finance and Administration (DFA) may not allocate the funds until it has received notice from the state CIO that the project has been certified.

On September 14, 2007, HED submitted a Request for Certification and Release of Funds Form to the CIO’s office requesting that approximately \$2.4 million of the total funding be certified and released for the first phase of IDEAL-NM’s implementation, which includes the establishment of the Statewide Cyber Academy; the establishment of a physical Service Center from which the cyber academy is managed; and the initial preparation of the data centers that will host the technology to support the LMS.

The request for certification was approved in the form of a letter from the state CIO to DFA, requesting that DFA release the funds. According to HED, an application for the certification of the remaining balance of the \$6.4 million appropriation will be submitted in November for the procurement and implementation of the LMS and web-conferencing systems.

The IDEAL-NM project budget is included in the IDEAL-NM Project Management Plan, and delineates the planned expenditure of the appropriations made to support the project’s implementation. The first column lists the amounts initially requested for FY 08. The second column lists the funds appropriated for the project, and the third column depicts how the funds are budgeted. HED reports that because the program received less funding than the requested amount, the program’s implementation had to be scaled back.

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<sup>1</sup> A summary of the *Statewide Cyber Academy Act* is included on page 14 of this report.

**Table 1: IDEAL-NM Project Budget**

DESCRIPTION	FY08 Request	HB2	Gen Fund
<b>eLearning Program Start-Up</b>			
<b>(Non-Recurring)</b>		\$6,400	
Equipment, Software, Materials	\$8,206		\$6,208
Contractual Services (IV&V @ 3%)	\$296		\$192
<b>Total</b>	<b>\$8,502</b>	<b>\$6,400</b>	
<b>NM Cyber Academy Start Up (Non-recurring)</b>			
Program Administration		\$500	
Exec. Director	\$90		\$90
PK-12 DE Director	\$61		\$61
Administrative Assistant/Secretary	\$24		\$35
Staff Benefits (@30%)	\$56		\$56
Operating Costs (RRCA)	\$50	\$50	\$57
Travel			\$10
Curriculum Development			\$90
Professional Development			\$90
Program/Course Evaluation			\$20
RECs (3,8,9 & NW Quadrant)	\$120	\$120	\$120
Other Prof/Curr Development	\$384		\$40
<b>Service Center Start-Up (Recurring)</b>		\$500	
Higher Ed/Govt DE Director	\$61		\$60
Helpdesk Support Staff (3)	\$101		
Staff Benefits (@30%)	\$52		\$38
Project Manager			\$68
IT Services, Maintenance Costs	\$1,249		\$334
<b>Total</b>	<b>\$2,247</b>	<b>\$1,170</b>	
<b>Year 1 TOTAL</b>	<b>\$10,749</b>	<b>\$7,570</b>	<b>\$7,569</b>
<b>(Non-Recurring)</b>			

**SOURCE:** PED - Cyber Academy Plan

## STATEWIDE CYBER ACADEMY

Passed in 2007, the *Statewide Cyber Academy Act* statutorily creates the Statewide Cyber Academy. When fully implemented, the Statewide Cyber Academy will provide online courses to K-12 students statewide. Students that enroll in Statewide Cyber Academy courses will remain students in their local school districts, as specified in law, and also in the distance learning regulation<sup>2</sup> (Attachment 2). Maintaining student transcripts, testing and Student Teacher Accountability Reporting System (STARS) data remains the responsibility of the district. The district is also responsible for online support of the student, which includes a local contact person to provide technical and academic support for both cyber academy students and teachers. In addition, the school district must provide cyber academy students with the necessary internet connection and computers to participate in online courses. The Cyber Academy Plan provides the following steps for enrolling a public school student in the Statewide Cyber Academy:

<sup>2</sup> A summary of the distance learning rule is included on page 15 of this report.

- the public school reviews course options available to students in the home district;
- the public school registers student in courses available from the cyber academy according to registration requirements.;
- the Statewide Cyber Academy enrolls the student in online course(s);
- the district pays the Statewide Cyber Academy \$256 per student per course<sup>3</sup>.

Nonpublic and home school students are also eligible to enroll in courses offered by the Statewide Cyber Academy. To participate in a Statewide Cyber Academy course, these students must follow the following procedure:

- the student's parent contacts the district to review the available Statewide Cyber Academy courses;
- the district registers the student in the Statewide Cyber Academy;
- the Statewide Cyber Academy enrolls the student in online course(s);
- the parent pays the district \$350 per student per semester-long course. If the student enrolls in more than three courses, the student is considered to be enrolled in one-half or more of the minimum course requirements approved by PED for public school students, and the district receives state funding for that student. In this case, the student's parents do not need to pay the district for the courses; and
- the district pays the Statewide Cyber Academy \$256 per student per course. The remainder of the fee covers the district costs of the eLearning support staff that support the student.

School districts receive no extra funding through the funding formula as a result of student participation in Statewide Cyber Academy courses; and school districts must use their state equalization guarantee (SEG) funding to pay for student participation in the cyber academy. The Cyber Academy Plan describes the methodology used to determine a reasonable estimate for the cost of a Statewide Cyber Academy course. The Cyber Academy Plan assumes that the primary cost of a course is the teacher's salary. Table 2 - Estimated Teacher Salary Cost illustrates methodology used to determine the teacher salary cost per student per semester.

- The calculation begins with the average teacher salary plus benefits, which was approximately \$59,000 in 2007.
- Assuming that the typical high school teacher teaches five classes per day, the annual teacher salary per class is calculated at approximately \$11,800.
- Dividing this figure by two yields approximately \$5,900, the cost faced by a school district to pay a teacher's salary for a semester-long class.
- Assuming an average class size of 30, the salary cost of a teacher is about \$196 per student per semester.

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<sup>3</sup> A description of the derivation of cyber academy course costs is included on pages 6-7 of this report.

**Table 2 - Estimated Teacher Salary Cost**

<b>Teachers Salary Cost:</b>		
Average Teacher Salary	Average Number of Classes	Salary Cost per Class
\$59,077.00	5	\$11,815.40
Salary Cost per Class	Semesters	Teacher Salary Cost per Semester Class
\$11,815.40	2	\$5,907.70
Salary per Semester	Number of Students per Class	Salary Cost per Student per Semester
\$5,907.70	30	\$196.92

**SOURCE:** PED - Cyber Academy Plan

The Cyber Academy Plan estimated that cyber academy courses will cost an additional \$60 per student per course in overhead costs, including clerical support, course registration, teacher evaluation, course development and accounting. When added to the teacher salary cost determined in Table 3, the estimated total cost to the district per student per course is therefore \$256.

To ensure that the Statewide Cyber Academy employs qualified teachers and eLearning support staff, PED will contract teacher services for the Statewide Cyber Academy via memoranda of understanding (MOU) with the licensed teacher's home district. eLearning support staff are school employees trained to provide on-site support to cyber academy students and teachers. School districts do not necessarily need to hire new employees to function as eLearning support staff — duties may be performed by school counselors, educational assistants, principals, or others.

- All teachers of K-12 services must be highly qualified in their subject area, according to the requirements of the federal *No Child Left Behind Act of 2001* (NCLB), and will be required to participate in professional development. The professional development curriculum for the first cohort of 32 cyber academy teachers will consist of 44 hours of training.
- All eLearning support staff must have a minimum of a two-year associate degree; and must receive eLearning training.

The Statewide Cyber Academy intends to develop its own courses, thereby avoiding the yearly fees charged by online course developers. Also, by developing its own courses, the Statewide Cyber Academy has more control over the course's content, and can ensure that courses meet New Mexico Content Standards and Benchmarks.

In addition to these self-developed courses, the Statewide Cyber Academy, in early phases of its implementation, will utilize vendor courses — courses purchased from a private course developer. Using vendor courses will allow for a greater supply of courses until similar courses are developed by the Statewide Cyber Academy.

School districts will also be able to develop district specific courses through access to the learning management system. These courses could eventually be submitted to the cyber academy for adoption into the statewide schedule of courses. Annually, in January, K-12 course curricula can be submitted to and reviewed by a PED eLearning cross-functional curricula review committee. The cross-functional review committee will oversee course descriptions, curricula, end-of-course assessments, and other curriculum support. The cross-functional committee will include all stakeholders and will align the work with the established New Mexico Content Standards with Benchmarks and Performance Standards. Included in the curriculum development process will be considerations of P-20 alignment, requirements of state and federal law, dual credit opportunities, and Advanced Placement (AP) courses.

For evaluation purposes, the cyber academy must, by law, conduct an annual evaluation, and provide an annual report to PED, HED, and the Legislature, as required by law. The report must include the following:

- a detailed report of expenditures;
- a description of services provided, including the number and location of local eLearning sites, public, charter, and nonpublic schools and eLearning students served; the courses offered; and the credits generated by local eLearning sites;
- teacher effectiveness; and
- student achievement.

Evaluation of teachers in the Statewide Cyber Academy will be conducted based on best practices developed by a statewide committee of instructional professionals for establishing standards for online teaching and learning. eLearning support staff at the local school district will conduct assessments of student achievement. Performance indicators will be collected from STARS data in November 2007 and April 2008, and analyzed for the following measurable outcomes:

- number of students taking advanced coursework such as AP and dual credit courses;
- completion rate of AP courses offered at the cyber academy;
- retention and attendance rates for high school students;
- percentage of high school students completing credit recovery courses;
- breadth and depth of the curriculum (including dual credit courses) available to all New Mexico high school students;
- number of participating public, charter, and nonpublic schools and public/nonpublic postsecondary institutions participating in the cyber academy;
- courses taken and grades earned;
- high school graduation rates for cyber academy students; and
- cyber academy course completion rate.



## STATEWIDE CYBER ACADEMY CURRENT STATUS - PILOT PROGRAM

HED and PED report that the Statewide Cyber Academy will not be fully operational until the beginning of school year 2008-2009. For school year 2007-2008, the cyber academy is operating as a pilot program that offers courses to grades 9-12 only. Because the RFPs for the LMS and video conferencing systems have not been awarded, the cyber academy does not presently have the capacity to support online education itself.

**Issue:** Though initial presentations made by the IDEAL-NM planning group had reported that the Statewide Cyber Academy would be fully operable in school year 2007-2008, HED reports that this was not feasible due to time constraints and the language making funding contingent upon the creation and approval of distance education and cyber academy plans. A delay in approving these plans has led to a delay in the flow of funding. Because of this delay, the hiring of cyber academy and IDEAL-NM staff, the procurement of the LMS, and therefore the opening of the Statewide Cyber Academy has been delayed.

In order to allow the cyber academy to offer courses, in school year 2007-2008, Albuquerque Public Schools (APS) has donated 500 seats from the district's own LMS to the Statewide Cyber Academy. These seats are available to students statewide. It was intended that these 500 seats be used to offer a state-developed online course, but because course development takes a significant amount of time and resources, no such course has yet been developed. The 500 seats offered by APS, therefore, are not being used in fall 2007.

Two courses are currently under development in New Mexico — Algebra I and New Mexico History — and will be completed and offered for the spring 2008 semester. These two subjects were selected as a result of the NACOL (North American Council for Online Learning) Needs Assessment Survey, which is addressed below. The survey determined that they were among the subjects that were most needed to be taught in an online environment. Though these courses will be offered to high school students, Algebra I is being developed on an 8<sup>th</sup> grade level, in order to fulfill the statutory requirement, passed during the 2007 legislative session, to offer Algebra I to 8<sup>th</sup> grade students by school year 2008-2009.

In order to offer courses for the fall 2007 semester and to test online processes in preparation for the opening of the Statewide Cyber Academy in 2008, PED has contracted with Aventa Learning, a private online course vendor, to provide 700 student enrollments to districts. Cyber academy students may take a variety of courses offered by Aventa Learning in both the fall 2007 and the spring 2008 semesters. Available subjects, some of which are offered as AP courses, include language arts, math, social studies, technology, and world languages.

Both synchronous<sup>4</sup> and asynchronous<sup>5</sup> Aventa Learning courses are offered. The synchronous courses involve lessons taught via live interaction with teachers, and will cost approximately \$250 per student per course per semester. The asynchronous credit-recovery courses are less labor intensive, and therefore cost districts approximately \$150 per student per course per semester.

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<sup>4</sup> An asynchronous course does not require "same time" interaction. The students and teacher can access the class at any time. There is no live component to the instruction.

<sup>5</sup> A synchronous course involves two-way communication with virtually no time delay, allowing participants to respond in real time. To communicate in real time, students and teachers must be logged on to the course at the same time.

The eLearning Service Center Executive Director reports that a total of 106 New Mexico students in seven high schools are currently enrolled in Aventa Learning courses. The students are taking a variety of subjects, including German, French, American history, world history, economics, psychology, English, pre-algebra, integrated math, digital video production, C++ programming, and driver's education.

## **NACOL NEEDS ASSESSMENT**

In an effort to seek feedback on how the cyber academy can best serve districts, schools, and students, the New Mexico Learning Network (NMLN) commissioned the North American Council for Online Learning (NACOL) to conduct a statewide online Needs Assessment survey. The target audience of the Needs Assessment survey was district-level and high school based personnel statewide, including public, private, and charter high schools. The results of this survey were presented in the *New Mexico: 2007 Needs Assessment Results*, and are intended to help New Mexico in the following areas:

- determining what online courses and services should be offered;
- prioritizing their online offerings;
- providing awareness of the online school program to schools and districts across the state; and
- demonstrating the level of need across the state in an effort to gain support from key stakeholders.

In total, NACOL received 189 responses from 72 districts. Based on the results of this survey PED and HED determined that New Mexico History and Algebra I should be the first courses to be developed for the Statewide Cyber Academy. The executive summary of the survey lists key findings, including:

- New Mexico history was the social studies course that received the most responses as being the most needed.
- No single math course stood out as being the “highest” need. PED and HED chose to develop Algebra I first, as this could also be offered to eighth grade students. Legislation passed during the 2007 session requires that Algebra I be offered to all eighth grade students by the beginning of school year 2008-2009.
- 52 percent of respondents stated that online learning options are an important part of their overall student academic success plan.
- The three most common reasons given for how eLearning is used for school improvement were to offer credit recovery/remediation courses, to offer an accelerated curriculum for middle school students, and to increase graduation rates.
- 72 percent of respondents stated that their school provides onsite academic support to students enrolled in online courses, and 75 percent of respondents stated that their school provides technical support.
- Respondents cite the lack of available funds as a key reason why schools may elect not to offer online courses.

## LESC DISTANCE LEARNING SURVEY

To supplement the findings of the NACOL survey, and help to develop a better understanding of online education in New Mexico, LESC staff conducted a survey of high school principals to assess awareness of the implementation and course offerings of the Statewide Cyber Academy among New Mexico high schools. The online survey was sent by e-mail to public and charter high schools, but not to alternative or state-supported high schools, for a total of 146 schools. The goals of the survey were to determine if high schools:

- currently offered online courses;
- had the computer hardware and internet connectivity necessary for online learning;
- were aware of the Statewide Cyber Academy's implementation, and the courses offered; and
- planned on allowing students to enroll in Statewide Cyber Academy courses.

Of the 146 principals to which the survey was mailed, 27 public and 11 charter schools, or 26 percent, responded. The following conclusions were drawn from the responses to the survey:

- 33 respondents stated that all schools in their district had sufficient computer hardware and internet connectivity to support online learning, and five respondents stated that not all schools in their district were sufficiently equipped and/or connected.
- 30 respondents currently offered distance learning courses, while eight respondents did not.
- Respondents reported a wide range of online courses that are available in the districts, ranging from core subjects such as English, mathematics, science and social studies to electives such as foreign languages, sociology, psychology, communications, vocational education, art, theater, and music courses.
- 17 respondents stated that distance education courses offered in their district were created by institutions of higher education, including Central New Mexico Community College, Clovis Community College, Eastern New Mexico University (ENMU), ENMU-Roswell, Luna Community College, New Mexico Highlands University, New Mexico Junior College (NMJC), New Mexico State University, Brigham Young University, and the University of North Carolina.
- 14 respondents stated that distance education courses offered in their district were purchased from course vendors, including AMDG; Apex Learning, Aventa Learning, Blueprint, E-2020, Global Student Network, Lincoln Interactive, the National Network of Digital Schools, NovaNET, OnlineExpert.com, Pearson Course Connect, and Platinum Learning.
- three respondents reported using self-developed courses: one developed a basic math online course, one offered a self-developed course through Pecos Valley REC 8, and the other through an instructional television course in cooperation with another school district.
- 17 respondents stated that their district was aware of the implementation of the Statewide Cyber Academy, 14 respondents were not aware of the Statewide Cyber Academy's implementation, and seven respondents did not answer the question.
- 12 respondents stated that their schools would participate in courses offered by the Statewide Cyber Academy; only two respondents stated that they would not participate in Statewide Cyber Academy courses, and 17 respondents were not sure. Seven respondents did not answer the question. Respondents were asked to explain their answer to this

question. The most common response was that they wanted more information about the cyber academy, including what courses are available, what they will cost, and if they meet state standards.

- 13 respondents stated that they would continue to offer the existing distance learning programs even after the Statewide Cyber Academy is fully implemented. These respondents stated that they were satisfied with their current distance learning programs. Many other responses stated that they would need to know more about the Statewide Cyber Academy before deciding whether to continue the current program, and added that cost and course availability were important factors.

**Issue:** Of those who responded to the survey, several stated that they would be interested in participating in Statewide Cyber Academy courses, but more stated that they would first require more information about course availability, cost, and quality. This lack of information is also reflected in the number of respondents who were not aware of the Statewide Cyber Academy's implementation. Based on the survey responses, eventual cyber academy participation and enrollment may benefit from an effort by the IDEAL-NM and Statewide Cyber Academy Administration to spread awareness of the cyber academy's current and future course offerings and costs.

## **NEW MEXICO LEARNING NETWORK (NMLN) PILOTS**

An additional source of online learning courses available through the Statewide Cyber Academy is a series of NMLN dual credit pilot programs. Beginning in fall 2006, MNLN approved funding for four separate pilot projects. Each of the approved pilot projects was required to demonstrate collaborative efforts between a college or university and one or more rural high schools to deliver online instruction to underserved populations. The higher education/high school partnerships include:

- Mesalands Community College/Dexter Consolidated Schools — eight students took a shop essentials class in fall 2006, and would continue to take the follow-up course, engine fundamentals in spring 2007.
- Eastern New Mexico University/Texico Independent Schools — a total of 27 students took Chemistry 151, Chemistry Lab 151, English 102, or Math 199.
- NMJC/Loving and Dora high schools — a total of six students took Biology 114 or English 113 in the fall 2006. In the spring semester, NMJC broadened its course offerings to the high schools, including economics, psychology, and criminal justice courses.
- Western New Mexico University/Lordsburg and Reserve high schools — 10 students took a developmental reading course. Developmental writing was offered in the spring.

The Statewide Cyber Academy Plan states that some of these NMLN pilots will continue into school year 2007-2008, indicating that these pilot programs will have the capacity for 120 students to enroll in distance learning for fall 2007, and for 60 student enrollments for spring 2008.

## **POLICY OPTIONS**

Two issues on educational technology were reported to the LESC at its September meeting:

- some districts received Educational Technology Fund distributions despite not having an approved technology plan; and

- school district technology self-assessments did not adequately determine the school district's level of technology adequacy.

For this report, in an attempt to learn about the capacity and level of educational technology in New Mexico schools, LESC staff surveyed public and charter high schools. Specifically, the survey asked whether schools had sufficient computer hardware and internet connectivity to support distance learning. However, only 26 percent of high schools responded, making it difficult to accurately assess the ability of New Mexico public schools to support distance learning.

- The above examples illustrate the problem of insufficient information about public schools' level of educational technology adequacy. Without sufficient and reliable information on which to base decisions, it is difficult for the committee, and the Legislature as a whole to make effective decisions.

In order to ensure that this information is collected, the committee may wish to make educational technology funding contingent upon PED's verification of district self assessments of educational technology deficiencies, and school districts' sufficient and timely reporting of the adequacy of their educational technology.

- The survey responses that were received included many comments asking for more information about the Statewide Cyber Academy. Increased awareness of IDEAL-NM and the Statewide Cyber Academy may encourage greater participation in the programs and help lead to program success.

The committee may therefore wish to request PED and HED to create a communications plan for increasing awareness of, and providing training for the utilization of the Statewide Cyber Academy.

## **THE STATEWIDE CYBER ACADEMY ACT**

The *Statewide Cyber Academy Act* creates the Statewide Cyber Academy in the Public Education Department (PED) to provide distance learning courses for grades 6 to 12 and professional development for educators. Among its other duties, the Statewide Cyber Academy must:

- establish a distance learning course delivery system that uses a statewide service center and regional hosts and that offers distance learning courses to students, as well as distance learning professional development to teachers and administrators;
- select regional hosts that have pre-existing experience and capacity to facilitate the delivery of distance educational programs;
- provide technical and program support to regional hosts and local distance learning sites;
- ensure that distance learning courses are taught by highly qualified teachers or members of the faculty of accredited postsecondary institutions and meet state academic content and performance standards;
- ensure that all deficiencies in the infrastructure, hardware, and software of the Statewide Cyber Academy are corrected in accordance with educational technology adequacy standards in the *Technology for Education Act* and comply with all rules governing privacy and confidentiality of student records for secure record storage;
- conduct an annual evaluation and provide an annual report to PED and the Legislature;
- give first priority to the delivery of distance learning courses for credit to distance learning students who have the greatest need because of geographic location or because of circumstances in which a school district may have difficulty delivering essential course instruction due to financial restraints or lack of highly qualified teachers; and
- for FY 08 the Statewide Cyber Academy shall include, among those distance learning students who are determined to have the greatest need, distance learning students served by school districts that are members of Regional Education Cooperatives (RECs) 3, 8, and 9.

For the purpose of participation in the Statewide Cyber Academy, the act defines a distance learning student as follows:

- a student must be enrolled in a public school or a state-supported school and must have the permission of the student's local distance learning site to enroll in a distance learning course. For funding purposes, a distance learning student must be counted only in the student's primary enrolling district;
- a home school student may participate in the Statewide Cyber Academy by enrolling for one-half or more of the minimum course requirements approved by PED for public school students in the public school district in which the student resides;
- a student enrolled in a nonpublic school may participate in the Statewide Cyber Academy if the school in which the student is enrolled enters into a contract with the public school district in which the nonpublic school is located; and
- a student who is detained in or committed to a juvenile detention facility or a facility for the long-term care and rehabilitation of delinquent children may participate in the Statewide Cyber Academy if the facility in which the student is enrolled enters into a contract with the public school district in which the facility is located.

## **DISTANCE LEARNING RULE**

To regulate distance learning enabled by the implementation of the Statewide Cyber Academy, PED, in January 2007, implemented rules found in [6.30.8 NMAC] (Attachment 2). The rule:

- defines terms relating to distance education;
- sets general parameters regarding distance learning;
- governs student enrollment and monitoring; and
- creates course requirements;

One key goal of the distance learning rule is to discourage the practice of “unit chasing,” in which districts attempt to enroll students that reside in other districts in order to capture the SEG funds that the students generate. The rule states that students must have a primary enrolling district where the student will be counted for SEG funding purposes. If a student from one district participates in a distance learning course taught in another district, then any reimbursement for this course must be arranged between the districts or charter schools via an MOU.

~~reimbursement premium from school districts and charter schools to cover the cost of due process reimbursement. From the authorization, the board shall allocate due process reimbursement premiums based on a school district's or charter school's claims experience and other criteria determined by the board. A single due process reimbursement shall not exceed three hundred thousand dollars (\$300,000).~~

~~History: Laws 2007, ch. 236, § 3.~~

~~Effective dates. — Laws 2007, ch. 236, § 4 makes this section effective on July 1, 2008.~~

## ARTICLE 30

### Statewide Cyber Academy Act

Sec.

22-30-1. Short title.

22-30-2. Definitions.

22-30-3. Statewide cyber academy created.

22-30-4. Department rules.

22-30-5. Statewide cyber academy; duties.

Sec.

22-30-6. Distance learning students.

22-30-7. Distance learning and computer-based courses.

22-30-8. Evaluation of regional education cooperative distance learning networks.

#### 22-30-1. Short title.

Sections 1 through 7 [and 11] of this act may be cited as the "Statewide Cyber Academy Act".

**History:** Laws 2007, ch. 292, § 1 and Laws 2007, ch. 293, § 1.

**Bracketed material.** — The bracketed material was added by the compiler to reflect a recompilation into the Statewide Cyber Academy Act. Laws 2007, ch. 292, § 11 and Laws 2007, ch. 293, § 11, recompile

former 22-13-27 NMSA 1978 into the Statewide Cyber Academy Act as 22-30-7 NMSA 1978.

**Duplicate laws.** — Laws 2007, ch. 292, § 1 and Laws 2007, ch. 293, § 1 enacted identical new sections, effective June 15, 2007.

#### 22-30-2. Definitions.

As used in the Statewide Cyber Academy Act [22-30-1 NMSA 1978]:

A. "course provider" means a person that supplies educational course content for distance learning courses;

B. "distance learning course" means an educational course that is taught where the student and primary instructor are separated by time or space and linked by technology;

C. "distance learning student" means a qualified student as defined in Section 22-8-2 NMSA 1978 who is enrolled in one or more distance learning courses for credit;

D. "learning management system" means a software application that facilitates on-line instruction and interaction between teachers and distance learning students;

E. "local distance learning site" means a school district or charter school that offers and grants credit for distance learning courses to distance learning students enrolled in the school district or charter school;

F. "primary enrolling district" means the school district or charter school in which the distance learning student is enrolled;

G. "regional host" means an educational institution, school district or other entity selected by the statewide cyber academy to coordinate the delivery of distance learning courses within a broad geographic region of the state;

H. "service center" means the single central facility where administrative and management functions of the statewide cyber academy are physically located in New Mexico; and

I. "statewide cyber academy" means the department's collaborative program that offers distance learning courses to all local distance learning sites.

**History:** Laws 2007, ch. 292, § 2 and Laws 2007, ch. 293, § 2.



**Duplicate laws.** — Laws 2007, ch. 292, § 2 and Laws 2007, ch. 293, § 2 enacted identical new sections, effective June 15, 2007.

### 22-30-3. Statewide cyber academy created.

The "statewide cyber academy" program is created in the department. The statewide cyber academy is a collaborative program among the department, the higher education department, telecommunications networks and representatives of other state agencies engaged in providing distance education. The statewide cyber academy shall provide distance learning courses for grades six through twelve and professional development for teachers, instructional support providers and school administrators.

**History:** Laws 2007, ch. 292, § 3 and Laws 2007, ch. 293, § 3.

**Cross references.** — For the public education department, see 9-24-4 NMSA 1978.

For the higher education department, see 9-25-1 NMSA 1978.

**Duplicate laws.** — Laws 2007, ch. 292, § 3 and Laws 2007, ch. 293, § 3 enacted identical new sections, effective June 15, 2007.

The Statewide Cyber Academy Act was enacted as part of the Public School Code, 22-1-1 NMSA 1978. The department referred to in the Statewide Cyber Academy Act means the public education department, 22-1-2 NMSA 1978.

### 22-30-4. Department rules.

The department shall promulgate rules to carry out the provisions of the Statewide Cyber Academy Act [22-30-1 NMSA 1978].

**History:** Laws 2007, ch. 292, § 4 and Laws 2007, ch. 293, § 4.

**Effective dates.** — Laws 2007, ch. 293, contains no effective date provision, but, pursuant to N.M.

Const., art. IV, § 23, is effective June 15, 2007, 90 days after the adjournment of the legislature.

**Compiler's notes.** — Laws 2007, ch. 292, § 4 and Laws 2007, ch. 293, § 4 enacted identical new sections, effective June 15, 2007.

### 22-30-5. Statewide cyber academy; duties.

The statewide cyber academy shall:

A. establish a distance learning course delivery system that is efficient and cost-effective and that uses a statewide service center and regional hosts to provide approved distance learning courses;

B. select regional hosts based on pre-existing experience and capacity to facilitate the delivery of distance educational programs, including public post-secondary educational institutions, regional education cooperatives and school districts;

C. provide technical and program support to regional hosts and local distance learning sites;

D. ensure that all distance learning courses offered by course providers are taught by highly qualified teachers or members of the faculty of accredited post-secondary educational institutions and meet state academic content and performance standards;

E. provide for reasonable and equitable means to allocate the costs of distance learning courses among the statewide cyber academy, the course providers and the school districts whose students are enrolled in a distance learning course;

F. give first priority to the delivery of distance learning courses for credit to distance learning students who have the greatest need because of geographic location or circumstances in which a school district may have difficulty delivering essential course instruction due to financial restraints or lack of highly qualified teachers; provided that in fiscal year 2008 the statewide cyber academy shall include, among those distance learning students who are determined to have the greatest need, distance learning students served by school districts that are members of regional education cooperatives three, eight and nine;

G. ensure that the statewide cyber academy's learning management system is compatible with school district and department data collection, analysis and reporting systems;

H. ensure that all deficiencies in the infrastructure, hardware and software in the statewide cyber academy are corrected in accordance with educational technology adequacy standards pursuant to Section 22-15A-11 NMSA 1978;

I. comply with all rules governing privacy and confidentiality of student records for secure record storage;

J. offer distance learning courses to distance learning students;

K. offer professional development via distance learning, using a learning management system;

L. assist the council on technology in education in its development of the statewide plan required by Section 22-15A-7 NMSA 1978, including a statewide cyber academy plan that addresses short- and long-range goals;

M. define and coordinate the roles and responsibilities of the collaborating agencies to establish a distance learning governance and accountability framework; and

N. conduct an annual evaluation and provide an annual report to the department and the legislature that includes a detailed report of expenditures; a description of services provided, including the number and location of local distance learning sites; public schools and distance learning students served; the courses offered; the credits generated by local distance learning sites; and student and teacher accountability reporting data.

**History:** Laws 2007, ch. 292, § 5 and Laws 2007, ch. 293, § 5.

**Compiler's notes.** — Laws 2007, ch. 292, § 5 and Laws 2007, ch. 293, § 5 enacted identical new sections, effective June 15, 2007.

## **22-30-6. Distance learning students.**

A. A student must be enrolled in a public school or a state-supported school and must have the permission of the student's local distance education learning site to enroll in a distance learning course. A distance learning student shall only be counted in the student's primary enrolling district for the purpose of determining the membership used to calculate a school district's state equalization guarantee. A student shall have only one primary enrolling district.

B. A home school student may participate in the statewide cyber academy by enrolling for one-half or more of the minimum course requirements approved by the department for public school students in the school district in which the student resides; or, if the student is enrolled for less than one-half of the minimum course requirements, the student may participate in the statewide cyber academy by paying not more than thirty-five percent of the current unit value per curricular unit.

C. A student enrolled in a nonpublic school may participate in the statewide cyber academy if the school in which the student is enrolled enters into a contract with the school district in which the nonpublic school is located.

D. A student who is detained in or committed to a juvenile detention facility or a facility for the long-term care and rehabilitation of delinquent children may participate in the statewide cyber academy if the facility in which the student is enrolled enters into a contract with the school district in which the facility is located.

**History:** Laws 2007, ch. 292, § 6 and Laws 2007, ch. 293, § 6.

**Compiler's notes.** — Laws 2007, ch. 292, § 6 and Laws 2007, ch. 293, § 6 enacted identical new sections, effective June 15, 2007.

## **22-30-7. Distance learning and computer-based courses.**

Public schools that offer distance learning and computer-based courses of study shall provide accompanying electronic formats that are usable by a person with a disability using assistive technology, and those formats shall be based on the American standard code for information interchange, hypertext markup language and extensible markup language.

**History:** Laws 2003, ch. 162, § 2; recompiled by Laws 2007, ch. 292, § 11 and Laws 2007, ch. 293, § 11.

**Recompilations.** — Laws 2007, ch. 292, § 11 and Laws 2007, ch. 293, § 11, effective June 15,

2007, recompile former 22-13-27 NMSA 1978 into the Statewide Cyber Academy Act as 22-30-7 NMSA 1978.

### **22-30-8. Evaluation of regional education cooperative distance learning networks.**

A network developed by regional education cooperatives three, eight and nine shall serve as a regional host in fiscal year 2008. The statewide cyber academy shall provide a preliminary report to the governor and the legislature by January 1, 2008 on the quality and cost-effectiveness of the provision of distance learning courses by the regional education cooperatives. At the end of fiscal year 2008, the statewide cyber academy shall prepare a final report on the quality and cost-effectiveness of services provided, including whether the services increased the rigor of school district and charter school curricula, and make recommendations for the expansion to other regional education cooperatives.

**History:** Laws 2007, ch. 292, § 7 and Laws 2007, ch. 293, § 7.

**Compiler's notes.** — Laws 2007, ch. 292, § 7 and Laws 2007, ch. 293, § 7 enacted identical new sections, effective June 15, 2007.

**TITLE 6            PRIMARY AND SECONDARY EDUCATION**  
**CHAPTER 30      EDUCATIONAL STANDARDS - GENERAL REQUIREMENTS**  
**PART 8            DISTANCE LEARNING**

**6.30.8.1            ISSUING AGENCY:** Public Education Department  
 [6.30.8.1 NMAC - N, 1-16-07]

**6.30.8.2            SCOPE:** All public schools, including charter schools. This rule does not apply to the use of technologies or methods used in distance learning programs when such technology or methods are used within a regular classroom setting solely to supplement or aid the classroom instruction.  
 [6.30.8.2 NMAC - N, 1-16-07]

**6.30.8.3            STATUTORY AUTHORITY:** Sections 22-2-1, 22-2-2, and 22-13-27 NMSA 1978.  
 [6.30.8.3 NMAC - N, 1-16-07]

**6.30.8.4            DURATION:** Permanent  
 [6.30.8.4 NMAC - N, 1-16-07]

**6.30.8.5            EFFECTIVE DATE:** January 16, 2007, unless a later date is cited at the end of a section.  
 [6.30.8.5 NMAC - N, 1-16-07]

**6.30.8.6            OBJECTIVE:** This rule establishes requirements for distance learning programs taken for credit or a grade by students enrolled in a school district or charter school.  
 [6.30.8.6 NMAC - N, 1-16-07]

**6.30.8.7            DEFINITIONS:**

- A. "Asynchronous instruction" means the instructor and student are not interacting in real time and can, but need not, utilize the internet.
- B. "Board" means the governing body of a school district or charter school.
- C. "Department" means the public education department.
- D. "Distance learning" means the technology and educational process used to provide instruction for credit when the student and primary instructor are not necessarily physically present at the same time and/or place.
- E. "Distance learning authorizer" means any public school, school district or charter school providing access to distance learning classes for credit.
- F. "Distance learning irregularities" means any circumstance within or beyond the control of a distance learning authorizer that in the opinion of the department or a distance learning authorizer raises doubts about the propriety of procedures followed, preparation or validity of materials, testing administration, testing security, online security, or teacher or student conduct.
- G. "District coordinator" means a staff person at the school district level who shall administer and monitor the online program for the school district.
- H. "Enrolling district" means the school district or charter school in which a student is enrolled for the purposes of compulsory attendance.
- I. "MEM" means membership.
- J. "Membership" means the total number of qualified students as defined in NMSA 1978, Section 22-8-2.
- K. "Online" or "web based" means utilizing the internet.
- L. "Primary enrolling district" means the school district or charter school in which the student is registered; students shall only have one primary enrolling district for purposes of membership.
- M. "Public school" means that part of a school district that is a single attendance center in which instruction is offered by one or more teachers and is discernible as a building or group of buildings generally recognized as either an elementary, middle, junior high or high school or any combination of those and includes a charter school.
- N. "Qualified distance learning student" means a qualified student as defined in NMSA 1978, Section 22-8-2 who is also enrolled in distance learning courses for credit or a grade.
- O. "Real time" interaction means live instruction that occurs between instructor and students, although the individuals need not be physically present in the same location at the same time.

P. "Site coordinator" means a licensed counselor or teacher, at a public school, including but not limited to a charter school, who shall monitor the progress of students participating in the online program at that school. Site coordinator duties shall not be performed by an educational assistant or substitute teacher, although they may assist.

Q. "Student" is a qualified student as defined in NMSA 1978, Section 22-8-2.

R. "Syllabi" are the distance learning provider's official course descriptions.

S. "Synchronous instruction" means the instructor and students receiving distance learning interact in real time. Synchronous instruction includes:

- (1) web based instruction that requires real time interaction between instructor and student;
- (2) two way interactive video;
- (3) regular classroom instruction; and
- (4) telephone based instruction.

[6.30.8.7 NMAC - N, 1-16-07]

#### **6.30.8.8 GENERAL PARAMETERS:**

A. Distance learning provides an opportunity for public schools within the state to expand their course offerings and expand access to instructional resources. These technologies shall not be used as a substitute for all direct, face-to-face student and teacher interactions, but as a means for local school districts and charter schools to expand the learning resources available to their students.

B. Distance learning authorizers shall provide onsite access to the necessary technology for participation in all distance learning classes or programs.

C. Distance learning authorizers shall provide accompanying electronic formats that are usable by a person with a disability using assistive technology, and those formats shall be based on the American standard code for information interchange, hypertext markup language and extensible markup language.

D. All local school boards offering distance learning shall, prior to the offering of distance learning, adopt written policies regarding distance learning which shall include the following parameters.

(1) The local school board shall be the sole entity granting student credit for completion of distance learning courses.

(2) Each district shall identify a district coordinator and each school providing distance learning classes or programs shall identify a site coordinator, who shall monitor students' work, except that if a distance learning program is provided by a charter school, the site coordinator can be designated to have responsibility for monitoring the distance learning program in that charter school.

(3) The site coordinator of the school shall approve or disapprove students' requests to participate in any distance learning courses or programs for credit or a grade pursuant to criteria established by local school board policy.

(4) Students shall not be precluded from taking distance learning classes outside of the normal school day. Students must be able to maintain a course schedule which incorporates both distance learning classes and locally scheduled classes without conflict.

(5) Districts and charter schools shall establish written policies and procedures for monitoring student progress and graded assignments, which shall include requirements that students be physically present at the school in which they are enrolled at regularly scheduled intervals, as established by the site coordinator and student or parent, and demonstrate mastery of the subjects being learned at that time. The same grading policies applied to locally scheduled classes shall apply to distance learning classes.

(6) All federal and state statutes pertaining to student privacy, the posting of images on the internet, copyright or duplication of materials, and rules pertaining to the public broadcasting of audio and video technology shall be addressed by local board policy.

(7) The security of individual student data and records shall be addressed by school board policy. At a minimum, student record safeguards under the Family Educational Right to Privacy Act [20 U.S. Code 1232g] shall be followed.

[6.30.8.8 NMAC - N, 1-16-07]

#### **6.30.8.9 ENROLLMENT AND MONITORING:**

A. Only students who are regularly enrolled in a school district or charter school shall be allowed to enroll in distance learning courses for credit.

B. Students must have a primary enrolling district. Should a student enroll in a distance learning course offered by a district or charter school other than the student's enrolling district, the student can only be

counted once as a qualified student for state equalization guarantee funding purposes as defined in Section 22-8-2 of the New Mexico Statutes Annotated for determining membership in the student's enrolling district. Any reimbursement for cross-district enrollment for distance learning courses shall be arranged between the districts or charter schools through signed written documents.

C. Qualified distance learning students enrolled in asynchronous distance learning courses must log onto their computers a minimum of four times per week and certify that they are the enrolled student each time they log on to their computers. Students enrolled in synchronous distance learning courses shall log on to their computer at the scheduled class time and certify that they are the enrolled student.

D. Each qualified distance learning student participating in a distance learning course or program shall be evaluated, tested and monitored at the same intervals as other students in the grade level in the student's school, and shall be subject to the statewide assessments as required in the Assessment and Accountability Act. No student shall be allowed to participate in the statewide assessments at a place other than a public school site.

E. A qualified distance learning student may enroll in and receive credit or a grade for a distance learning class or program that is at a different grade level than the student's current grade level. However, a student cannot take the same course twice for credit.

[6.30.8.9 NMAC - N, 1-16-07]

#### **6.30.8.10 COURSE REQUIREMENTS:**

A. Districts and charter schools shall ensure that all courses taught by New Mexico school personnel are taught by an appropriately licensed and endorsed primary instructor, and that all courses taught by an out of state or university instructor are affiliated with an accredited provider.

B. Districts and charter schools shall establish written criteria and an approval process adopted in written board policy for determining the appropriateness of particular distance learning courses for each individual students prior to student enrollment in such courses. All core curriculum delivered by distance learning must meet or exceed the New Mexico content standards and benchmarks. Districts shall collect and keep on file, in either an electronic or paper format, course syllabi for all distance learning courses which shall be available for inspection by the public.

C. A qualified distance learning student must receive a grade or academic credit for taking a distance learning course or program unless not offered for credit.

[6.30.8.10 NMAC - N, 1-16-07]

#### **6.30.8.11 DISTANCE LEARNING IRREGULARITIES:**

A. Each local school board and charter school shall adopt a written policy addressing prompt removal or non-use of a distance learning provider should irregularities or deficiencies in the provider's services become apparent.

B. Should a distance learning authorizer fail to comply with this rule, the department shall disapprove membership based on students' enrollment in the distance learning courses or programs.

C. Should a student fail to comply with this rule or the distance learning authorizer's policies, in addition to any other disciplinary actions, the student may be denied credit for the distance learning course or program in which the student was enrolled.

[6.30.8.11 NMAC - N, 1-16-07]

History of 6.30.8 NMAC: [Reserved]